IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 14368 of 2005

Between:

Andhra Pradesh State Panchayat Secretaries Association, District Unit-Visakhapatnam District, (Registered No.1851 of 2002) rep. By its present- E. Sri Rama Murthy S./o. Late Sri Subbaiah, aged 46 yrs, Office at Flat No. 65, Arunodaya Complex, Dwarakanagar 1st Lane. Visakhapatnam.

PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Principal

Secretary, Panchayat Raj & Rural Employment

Department, Secretariat, Hyderabad.
2 The Commissioner of Panchayat Raj & Rural Employment,

Government of Andhra Pradesh, Urdu Galli,Himayathnagar,
Hyderabad.
3 Sri Praveen Prakash I.A.S. S/o. Sri Prem Prakash Srivastyav,
Aged 35 years, District Collector, Visakhapatnam, Visakhapatnam.
4 District Collector, Visakhapatnam District, Visakhapatnam,

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or direction preferably one in the nature of Writ of Mandamus, declaring the action of the Respondents 1 and 2 in not initiating any action against the 3rd respondent on the representation by way of Telegram dt. 23-6-2005 of the petitioner Association, as well as the High handed action of the 3rd respondent in discharge of his Official duties at his whims and fancies detrimental to the interest of public in general and subordinate officials in particular as arbirrary,

illegal, violative of Articles 14, 21 and 311 of the Constitution of India, and consequently direct the respondents 1 and 2 to initiate appropriate action against the 3rd Respondent in accordance with law forthwith; and pass such other or further orders as are necessary.

Counsel for the Petitioner: MR.M.PRASADA RAO

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

ORDER:

The writ petition is filed by the petitioner seeking Writ of Mandamus declaring the action of the respondents 1 and 2 in not initiating any action against the 3rd respondent on the representation by way of telegram dated 23-6-2005 of the

petitioner association as well as against the high handed action of the 3rd respondent in discharging his official duties at his whims and fancies, detrimental to the interest of public in general and subordinate officials in particulars as arbitrary, illegal, violative of Articles-14,21 and 311 of the Constitution of India and consequently direct the respondents 1 and 2 to initiate appropriate action against the 3rd respondent .

The petitioner is A.P.State Panchayat Secretaries' Association. According to the President of the petitioner-Association who filed an affidavit, the Association issued a telegram to the respondents 1 and 2 against the functioning of the 3rd respondent as Collector of the District, stating that the activities of the 3rd respondent are not in accordance with the rules. It is stated that there are 976 Gram Panchayats in Visakhapatnam District of which the posts of Panchayat Secretaries in 100 Grampanchayats are vacant. The immediate superior of Panchayat Secretary is Sarpanch of Gram Panchayat. It is stated that the 3rd respondent is in the habit of resorting to mass suspensions, transfers of various Government Employees who are working within his jurisdiction and in the process, 8 Panchayat Secretaries who are members of the Petitioner-Association are placed under suspension under the instructions of the 3rd respondent by the concerned Mandal Parishad Development Officer, Nakkapalli Mandal, solely on the ground that they are not residing in their concerned Gram panchayats. All the suspended employees made a representation to the 3rd respondent duly enclosing certificate of residence issued by the Sarpanch of the concerned Gram Panchayat, but in spite of the same, they were not reinstated into service. Therefore, they filed O.A. No.2094 of 2005 before the Administrative Tribunal. The petitioner also alleged various other activities stated to have been indulged by the 3rd respondent. Therefore, the petitioner issued a telegram to the respondents 1 and 2 for taking action against the 3rd respondent but the respondents 1 and 2 have not initiated any action. Therefore, the present writ petition is filed.

Heard the learned counsel appearing on behalf of the petitioner.

Prima facie, the writ petition is illegally motivated only to attack the 3rd respondent to see that he should not act in accordance with law. If actually there are any acts by the 3rd respondent which are not in accordance with law, the members of the petitioner- association are at liberty to seek remedies that are available under law.

The petitioner in the affidavit has given the instance of the suspension of some of the members of the petitioner-association on the ground that they are not residing within the Grampanchayat where they are working and therefore, they approached the A.P.Administrative Tribunal seeking redressal. If certain actions are initiated by the 3rd respondent for violation of the rules, the petitioner cannot object for the same. If there is any illegality committed by the 3rd respondent, the petitioner-association is at liberty to approach appropriate authority and seek redressal. But they can not make this sort of allegation and approach this Court seeking a direction to the Government giving threat to the 3rd respondent, thereby preventing him from taking appropriate action in accordance with law. The said action of the petitioner is clearly illegal and without jurisdiction. Further, the petitioner did not even wait for a reasonable period from the date of telegram and as such, approached this Court seeking writ of Mandamus to the 1st and 2nd respondents to take action against the 3rd respondent. The action of the petitioner is nothing but bulldozing and black mailing the 3rd respondent to see that he shall not function as a Head of the District or he should function as per the dictates of the petitioner's Association.

Under the above circumstances, the Writ Petition is devoid of merits and the same is dismissed. No costs.

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Justice S.ANANDA REDDY

Date : 5th July, 2005

Dvs

Copies to:

1 The Principal Secretary, The Government of Andhra Pradesh,

Panchayat Raj & Rural Employment Department, Secretariat,

Hyderabad.

2 The Commissioner of Panchayat Raj & Rural Employment,

Government of Andhra Pradesh, Urdu Galli,Himayathnagar,
Hyderabad.

4 The District Collector, Visakhapatnam District, Visakhapatnam,

5. Two CCs to the GP for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad.

6. Two CD copies.

HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.P. NO.14368 OF 2005

5th July, 2005